

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2864 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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FULABHAI LALABHAI PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR PM BHATT for Petitioner  
MR MA BUKHARI ASSTT.GOVERNMENT PLEADER  
for Respondent No. 1  
SERVED BY DS for Respondent No. 2  
MR MD PANDYA for Respondent No. 5

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CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 17/07/97

ORAL JUDGEMENT

Heard Mr. Bhatt for the petitioner and Mr.Bukhari, AGP for the respondents. This petition is already admitted and interim relief has been granted in terms of prayer clause 15(D) on 11th April, 1997. Today both the advocates have made their submissions.

2. After hearing them, it appears that part of Survey No. 381 is supposed to go in a road as per the plan prepared by Vadodara Urban Development Authority. From the order of the competent authority, it also appears that initially, particular land was falling in agricultural zone, whereas from 1988 it falls in an industrial zone. Mr. Bhatt submits that these points ought to have been gone into.

3. In my view, these points require consideration, though, it is true that, the petition has been filed nearly 2 years and 9 months after the order of the appellant authority. Mr. Bukhari, therefore, submitted that impugned order be maintained.

4. In my view, although there is delay, if the petitioner has any legal right, there is no reason why those should not be examined. For this reason alone, both the impugned orders are quashed and set aside and the matter is remanded to the competent authority. Remand is only on these two points- namely to find out as to whether any part of Survey No. 381 is going in road, and if yes, how much exemption should be given and secondly, whether the land being used for agricultural purpose, when the Act came into force. The petition is accordingly allowed. Rule is made absolute in part, with no order as to costs. The competent authority will decide the matter expeditiously.

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